

UNITED STATES OF AMERICA,	)	No. CR 04-40038 CW
	)	
Plaintiff,	)	<b>AMENDED</b>
v.	)	REPORT AND RECOMMENDATION
	)	REGARDING DEFENDANT'S
RAMIEL ANDREWS,	)	ADMISSION OF VIOLATIONS OF THE
	)	TERMS AND CONDITIONS OF HIS
Defendant.	)	SUPERVISED RELEASE OR
	)	PROBATION
	)	

On February 19, 2010, the defendant pled no contest to a violation of California Penal Code Section 487 (c), Grand Theft, a felony, in San Joaquin Superior Court (Docket number MF032665C). The defendant was sentenced to 365 days jail with 52 days credit for time served and five years formal probation.

1. On the hearing date set forth above, with the assistance of counsel, the defendant waived his right to admit the violations in district court and instead consented to admit the violations in a hearing in magistrate court. Specifically, the magistrate court advised him that he had a right to

1 admit the violations in district court and that under 28 U.S.C. § 636(b) and Federal Rule of Criminal  
2 Procedure 59, he could waive that right and consent to admit the violations in a hearing in magistrate  
3 court. The magistrate court also advised him that it would issue a written report recommending that  
4 the district court accept the admissions, that the district court would review the recommendation and  
5 decide whether to accept the admissions, and that the district court and not the magistrate court  
6 would sentence him. The magistrate court also advised him of the procedures (also set forth at the  
7 end of this order) for challenging the magistrate court's recommendation. The defendant then  
8 waived his right to proceed in district court and consented to the magistrate court's conducting the  
9 hearing regarding the admission of the supervised release violations.

10 2. The magistrate court then reviewed, and the defendant acknowledged that he understood,  
11 the following: (a) the nature of the charge and the maximum penalty he faced; (b) his rights under  
12 Federal Rule of Criminal Procedure 32.1(b)(2); (c) the district court, not the magistrate court, would  
13 conduct the sentencing; and (d) the parties' sentencing agreement was not binding on the district  
14 court.

15 3. After the advisements set forth in Rule 32.1(b)(2) and summarized here, the defendant  
16 waived his right to a Rule 32.1(b)(2) hearing and admitted the charges summarized above. The  
17 magistrate court found that he was fully competent and capable of admitting the charges in the  
18 petition, that he was aware of the nature of the charges and the consequences of admitting them, and  
19 that his admission and waiver of rights were knowing and voluntary. This court thus recommends to  
20 the district court that it accept the defendant's admissions.

21 4. Any party may serve and file specific written objections within fourteen days after being  
22 served with a copy of this order. *See* 28 U.S.C. § 636(b)(1); Fed. R. Crim. P. 59. Failure to file  
23 objections within the specified time may waive a party's right to review. *See* Fed. R. Crim. P. 59(b).

1           5. At the parties' request, this court set the matter for further proceedings before the district  
2 court on Wednesday, June 2, 2010 , at 2:00 p.m.

3           IT IS SO RECOMMENDED.

4 Dated: May 17, 2010



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LAUREL BEELER  
United States Magistrate Judge